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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues  
13 Against:

14 **DREW AARON WESTFALL**

15 Respondent.

Case No. 2012-459

**DEFAULT DECISION AND ORDER**

[Gov. Code, § 11520]

16 **FINDINGS OF FACT**

17 1. On or about February 21, 2012, Complainant Louise R. Bailey, M.Ed., RN, in her  
18 official capacity as the Interim Executive Officer of the Board of Registered Nursing, Department  
19 of Consumer Affairs, filed Statement of Issues No. 2012-459 against Drew Aaron Westfall  
(Respondent) before the Board of Registered Nursing.

20 2. On or about February 23, 2011, Respondent filed an application dated February 19,  
21 2011, with the Board of Registered Nursing to obtain a Registered Nurse License.

22 3. On or about March 29, 2011, the Board issued a letter denying Respondent's  
23 application for a Registered Nurse License. On or about May 17, 2011, Respondent appealed the  
24 Board's denial of his application and requested a hearing.

25 4. On or about February 29, 2012, Tracy Cortez, an employee of the Department of  
26 Justice, served by Certified and First Class Mail a copy of the Statement of Issues No. 2012-459,  
27 Statement to Respondent, Request for Discovery, Government Code sections 11507.5, 11507.6,  
28 and 11507.7, and Notice from Respondent/Applicant to Respondent's address on the application

1 form, which was and is 7675 E. McDonald Drive, Unit #205, Scottsdale, AZ 85250. A copy of  
2 the Statement of Issues is attached as exhibit A, and is incorporated herein by reference.

3 5. Service of the Statement of Issues was effective as a matter of law under the  
4 provisions of Government Code section 11505, subdivision (c).

5 6. On or about May 17, 2011, Respondent appealed the denial of his application and  
6 requested a hearing in this action. On or about March 7, 2012, Respondent submitted a Notice of  
7 Withdrawal of Request For Hearing.

8 7. Business and Professions Code section 118 states, in pertinent part:

9 (a) The withdrawal of an application for a license after it has been filed with a  
10 board in the department shall not, unless the board has consented in writing to such  
11 withdrawal, deprive the board of its authority to institute or continue a proceeding  
12 against the applicant for the denial of the license upon any ground provided by law or  
13 to enter an order denying the license upon any such ground.

14 8. Government Code section 11506 states, in pertinent part:

15 (c) The respondent shall be entitled to a hearing on the merits if the respondent  
16 files a notice of defense, and the notice shall be deemed a specific denial of all parts  
17 of the accusation not expressly admitted. Failure to file a notice of defense shall  
18 constitute a waiver of respondent's right to a hearing, but the agency in its discretion  
19 may nevertheless grant a hearing.

20 9. California Government Code section 11520 states, in pertinent part:

21 (a) If the respondent either fails to file a notice of defense or to appear at the  
22 hearing, the agency may take action based upon the respondent's express admissions  
23 or upon other evidence and affidavits may be used as evidence without any notice to  
24 respondent; and where the burden of proof is on the respondent to establish that the  
25 respondent is entitled to the agency action sought, the agency may act without taking  
26 evidence.

27 10. Pursuant to its authority under Government Code section 11520, the Board finds  
28 Respondent is in default. The Board will take action without further hearing and, based on  
evidence on file herein, finds that the allegations, in Statement of Issues No. 2012-459 are true.

#### **DETERMINATION OF ISSUES**

1. Based on the foregoing findings of fact, Respondent Drew Aaron Westfall has  
subjected his application for a Registered Nurse License to denial.

2. Service of Statement of Issues No. 2012-459 and related documents was proper and  
in accordance with the law.

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3. The agency has jurisdiction to adjudicate this case by default.

4. The Board of Registered Nursing is authorized to deny Respondent's application for licensure based upon the following violations alleged in the Statement of Issues:

- a. Bus. & Prof. Code section 480(a)(1) – Criminal Convictions
- b. Bus. & Prof. Code section 480(a)(3)(A) – Acts if Committed by a Licensee

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**BEFORE THE  
BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS  
STATE OF CALIFORNIA**

In the Matter of the Statement of Issues  
Against:

**DREW AARON WESTFALL**

Respondent.

Case No. 2012-459

**ORDER**

IT IS SO ORDERED that the application for Registered Nurse License, filed by  
Respondent Drew Aaron Westfall, is denied.

Pursuant to Government Code section 11520, subdivision (c), Respondent may serve a  
written motion requesting that the Decision be vacated and stating the grounds relied on within  
seven (7) days after service of the Decision on Respondent. The agency in its discretion may  
vacate the Decision and grant a hearing on a showing of good cause, as defined in the statute.

This Decision shall become effective on July 27, 2012.

It is so ORDERED June 29, 2012

  
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FOR THE BOARD OF REGISTERED NURSING  
DEPARTMENT OF CONSUMER AFFAIRS

Attachment:

Exhibit A: Statement of Issues No. 2012-459

Exhibit A

Statement of Issues No. 2012-459

1 KAMALA D. HARRIS  
Attorney General of California  
2 ARTHUR D. TAGGART  
Supervising Deputy Attorney General  
3 KAREN R. DENVIR  
Deputy Attorney General  
4 State Bar No. 197268  
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5 P.O. Box 944255  
Sacramento, CA 94244-2550  
6 Telephone: (916) 324-5333  
Facsimile: (916) 327-8643  
7 *Attorneys for Complainant*

8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

11 In the Matter of the Statement of Issues  
Against:

Case No. **2012-459**

**STATEMENT OF ISSUES**

12 **DREW AARON WESTFALL**  
13 **7675 E. McDonald Drive, Unit #205**  
14 **Scottsdale, AZ 85250**

15 Respondent.

16  
17 Louise R. Bailey, M.Ed., RN ("Complainant") alleges:

18 **PARTIES**

19 1. Complainant brings this Statement of Issues solely in her official capacity as the  
20 Interim Executive Officer of the Board of Registered Nursing ("Board").

21 2. On or about February 23, 2011, the Board received an Application for Licensure by  
22 Endorsement from Drew Aaron Westfall ("Respondent"). On or about February 19, 2011,  
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and  
24 representations in the application. The Board denied Respondent's application on  
25 March 29, 2011.

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1 JURISDICTION

2 3. Pursuant to Business and Professions Code ("Code") section 485(b), on or about  
3 March 29, 2011, Respondent's application was denied and he was notified of the right to a  
4 hearing to appeal the denial.

5 4. On or about May 17, 2011, Respondent requested a hearing to appeal the denial of his  
6 application.

7 STATUTORY PROVISIONS

8 5. Code section 2736 provides, in pertinent part, that the Board may deny a license when  
9 it finds that the applicant has committed any acts constituting grounds for denial of licensure  
10 under Code section 480.

11 6. Code section 2761 states, in pertinent part:

12 The board may take disciplinary action against a certified or licensed nurse or  
13 deny an application for a certificate or license for the following:

14 (a) Unprofessional conduct.

15 (f) Conviction of a felony or of any offense substantially related to the  
16 qualifications, functions, and duties of a registered nurse, in which event the record of  
the conviction shall be conclusive evidence thereof.

17 7. Code section 2762 states, in pertinent part:

18 In addition to other acts constituting unprofessional conduct within the meaning  
19 of this chapter [the Nursing Practice Act], it is unprofessional conduct for a person  
licensed under this chapter to do any of the following:

20 (b) Use any controlled substance as defined in Division 10 (commencing with  
21 Section 11000) of the Health and Safety Code, or any dangerous drug or dangerous  
22 device as defined in Section 4022, or alcoholic beverages, to an extent or in a manner  
dangerous or injurious to himself or herself, any other person, or the public or to the  
extent that such use impairs his or her ability to conduct with safety to the public the  
practice authorized by his or her license.

23 (c) Be convicted of a criminal offense involving the prescription, consumption,  
24 or self-administration of any of the substances described in subdivisions (a) and (b) of  
25 this section, or the possession of, or falsification of a record pertaining to, the  
substances described in subdivision (a) of this section, in which event the record of  
the conviction is conclusive evidence thereof.

26 8. Code section 480 states, in pertinent part:

27 (a) A board may deny a license regulated by this code on the grounds that the  
28 applicant has one of the following:

1 (1) Been convicted of a crime. A conviction within the meaning of this section  
2 means a plea or verdict of guilty or a conviction following a plea of nolo contendere.  
3 Any action that a board is permitted to take following the establishment of a  
4 conviction may be taken when the time for appeal has elapsed, or the judgment of  
conviction has been affirmed on appeal, or when an order granting probation is made  
suspending the imposition of sentence, irrespective of a subsequent order under the  
provisions of Section 1203.4 of the Penal Code.

5 (3)(A) Done any act that if done by a licentiate of the business or profession in  
question, would be grounds for suspension or revocation of license.

6 (B) The board may deny a license pursuant to this subdivision only if the crime  
7 or act is substantially related to the qualifications, functions, or duties of the business  
or profession for which application is made.

8 **FIRST CAUSE FOR DENIAL OF APPLICATION**

9 **(Conviction of Crimes)**

10 9. Respondent's application is subject to denial under Code sections 2761(f), and  
11 480(a)(1), in that on or about February 22, 2008, in the case of *People v. Drew A. Westfall*,  
12 (Municipal Ct. Stark County, Case No. 2008-TRC-00256), Respondent was convicted by the  
13 Court on his plea of no contest of violating ORC section 4511.19A1A (operating a vehicle while  
14 under the influence of alcohol or drugs), and ORC section 4511.20 (reckless operation of a  
15 vehicle), crimes that are substantially related to the qualifications, functions or duties of a  
16 licensed registered nurse. The circumstances of the crimes were that on or about January 10,  
17 2008, Respondent drove a vehicle while having a blood alcohol level of 0.28% and was involved  
18 in a collision.

19 **SECOND CAUSE FOR DENIAL OF APPLICATION**

20 **(Committed Acts Which If Done By A Licentiate)**

21 10. Respondent's application is subject to denial under Code section 480(a)(3)(A), in that  
22 he committed acts which if done by a licentiate of the profession would constitute grounds for  
23 discipline under Code sections 2761(f) (conviction of a crime substantially related to the  
24 qualifications, functions or duties of a license holder); 2762(b) (convicted of a crime involving  
25 the consumption of alcohol); and 2762(c) (used alcoholic beverages to an extent or in a manner  
26 dangerous or injurious to himself and the public), as set forth above in paragraph 9.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Registered Nursing issue a decision:

1. Denying the application of Drew Aaron Westfall for a Registered Nurse License; and,
2. Taking such other and further action as deemed necessary and proper.

DATED: February 21, 2012

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Interim Executive Officer  
Board of Registered Nursing  
State of California  
*Complainant*

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